



LAW DEPARTMENT

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NEW YORK, N. Y. 10007

PETER L. ZIMROTH
Corporation Counsel

(212) 566-1369

August 4, 1989

Hon. Thomas P. Griesa
United States District Court
Foley Square
New York, N.Y.

Re: McAllan v. Kerr, 84 Civ 0671 (TPG)

Dear Judge Griesa:

At our last status conference on May 24, 1989, at which defendants requested permission to move for summary judgment on the remaining causes of action in this matter, you suggested that, instead, we submit for your review the revised Operating Procedure covering release of information on EMS operations. If the new procedure is not objectionable, you suggested that plaintiffs might consider withdrawing their remaining causes of action.

The new procedure has now been completed and officially adopted. A copy is enclosed for your review. A copy of the prior procedure, known as Executive Order #29, is also enclosed for comparison.

I will await response from the Court and from plaintiffs.

Respectfully,

Grace Goodman
Assistant Corporation Counsel

Enclosures

cc: Michael Sussman,
Attorney for Plaintiff ✓
(with enclosures)

ADD
Send to Mr
McAllan
with the
cover letter
Please go
my
5/13/89

RECEIVED

AUG 07 1989

SUSSMAN & SUSSMAN

REVISION NOTICE



DIRECTIVE OPERATING GUIDE		
NUMBER	89-15	DATE August 10, 1989
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The following procedures have been added, amended or revoked.		

THE FOLLOWING EMS OPERATING GUIDE PROCEDURE IS IN EFFECT AS OF AUGUST 10, 1989.

1. The attached EMS Operating Guide Procedure has been revised. The old procedure shall be removed from the Guide and replaced with the attached, in proper numerical sequence:

<u>OGP Number</u>	<u>Subject</u>
101-6	Release of Information Regarding EMS Operations

2. Executive Order #29 - Release of Information dated May 12, 1981 is hereby revoked.

ANY OTHER SERVICE ISSUED DIRECTIVES IN CONFLICT WITH THIS REVISION NOTICE ARE HEREBY REVOKED.

DISTRIBUTION:

All Members of the Service

NEW YORK CITY EMERGENCY MEDICAL SERVICE

HHC 662 (R Apr 87)

OPERATING GUIDE

PROCEDURE NUMBER: 101-6



RELEASE OF INFORMATION REGARDING EMS OPERATIONS

DATE ISSUED 08/10/89	DATE EFFECTIVE 08/10/89	REVISION NUMBER 89-15	PAGE 1 of 2
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PURPOSE:

To protect information that should be treated as confidential while permitting release of other information under proper safeguards.

SCOPE:

This procedure applies to all members of the Service.

RESPONSIBILITY:

It is the responsibility of all members of the Service to safeguard certain information relating to this Service, in order to insure the patient's right to confidentiality as well as to comply with the rules and regulations of the Health and Hospitals Corporation and the New York City Emergency Medical Service.

A. Members of the Service shall understand clearly that the right of the public interest is superseded by the patient's right of confidentiality about his/her medical problem.

B. Members of the Service shall not, without proper authorization, use, copy, or read EMS records, ambulance call reports and/or hospital charts, nor disclose information contained in such records to unauthorized persons.

PROCEDURE:

I. There are three types of situations in which members of the Service may become involved in providing information about EMS and its operations. Different guidelines apply to each type of situation:

A. A properly identified representative of the news media requests information and/or comment about EMS in general or about some specific event or incident:

1. EMS employees may not divulge, except with advance permission of the Executive Director, or his designee:

- a. Identity of a patient.
- b. Medical information of a patient.
- c. Home address or telephone number of a patient.

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RELEASE OF INFORMATION REGARDING EMS OPERATIONS

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PROCEDURE:
(cont'd)

2. EMS employees should notify the Associate Executive Director for Public Information or a designated representative of the Office of Public Affairs that an inquiry has been made within a reasonable time after receiving the inquiry, but not necessarily before responding to it.

3. EMS employees may not hold themselves out as spokespersons for EMS on any topic without first seeking and receiving permission of the Executive Director, or his designee.

B. A legal or administrative proceeding, operating under supervision of a Court or Administrative Law Officer, requests testimony.

EMS employees should testify to the truth and respond to any and all questions properly put to them that are not the subject of legal objection by an HHC attorney.

C. Should an EMS employee wish to volunteer information or opinions in a lecture, article, media interview, public hearing, etc., the guidelines for doing so are the same as outlined in section "A" above.

II. Any member of the Service who violates these guidelines may be subject to disciplinary action.

OPERATING GUIDE

PROCEDURE NUMBER: 101-6



RELEASE OF INFORMATION REGARDING THE OFFICIAL BUSINESS OF THE SERVICE

DATE ISSUED	DATE EFFECTIVE	REVISION NUMBER	PAGE
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- PURPOSE:** To prevent the unauthorized dissemination of information concerning the official business of the Emergency Medical Service.
- SCOPE:** This procedure applies to all members of the Service.
- POLICY:**
- A. Members of the Service shall understand clearly that the right of the public to be informed on matters of public interest is superseded by the patient's right of confidentiality about his/her medical problem.
 - B. Inasmuch as information obtained by reason of employment with the Service is confidential, members of the Service shall not reveal or divulge information about the Service without the expressed approval of the Executive Director or his/her designee. Exceptions to this policy are listed in the procedure enumerated below.
 - C. Members of the Service shall not give or use information obtained by reason of their employment with the Service to advance their own interests, those of their families, business or personal associates or others.
 - D. Members of the Service shall not, without proper authorization use, copy or read EMS records, ambulance call reports and/or hospital charts, nor disclose information contained in such records to unauthorized persons.
 - E. Members of the Service shall not contact or speak with representatives of the news media about any aspect of the Service without the express approval of the Executive Director or his/her designee, except as listed in the procedure below.

OPERATING GUIDE

PROCEDURE NUMBER: 101-6



RELEASE OF INFORMATION REGARDING THE OFFICIAL BUSINESS OF THE SERVICE

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RESPONSIBILITY:

It is the responsibility of all members of the Service to safeguard any and all information relating to this Service, in order to insure the patient's right to confidentiality as well as to comply with the rules and regulations of the Health and Hospitals Corporation and the New York City Emergency Medical Service.

PROCEDURE:

A. Upon receiving a request for information or interview concerning EMS business, all members of the Service shall:

1. Treat all business of the Service as confidential.
2. Divulge information about the official business of the Service only as follows:
 - a) Under due process of law or;
 - b) With permission of the Executive Director or the Director of Public Affairs or;
 - c) As described in the sections below.
3. Exercise discretion when divulging authorized information.

B. At the scene of an incident where representatives of the news media are present and request information, members of the Service shall direct the representative to the EMS supervisor or Public Affairs Officer on the scene.

1. In the absence of an on-scene Public Affairs Officer, EMS Communications Tour Commanders, EMS Incident Commanders and on-scene supervisors may answer reporter's inquiries, where patient care is not jeopardized. The following information may be given to the news media:

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PROCEDURE:
(continued)

- a) Number of patients
 - b) Number and type of EMS units operating at the scene
 - c) Type of patient injuries and treatment provided
 - d) Facility(ies) to which patient(s) will be transported
 - e) All other information only as authorized by the Executive Director or his/her designee
2. Information regarding the activities of other agencies at the scene (i.e. Police and Fire operations) shall not be disclosed to the media by EMS personnel. Inquiring members of the press shall be directed to contact the respective agency's Public Affairs Officer for such information.
 3. If an EMS supervisor or Public Affairs Officer is unavailable, members of the Service shall instruct the reporter to contact the Office of Public Affairs or the EMS Communications Tour Commander.

RELATED PROCEDURES:

Health and Hospitals Corporation Employees Handbook, EMS Executive Order 29, EMS Operating Guide Procedure 101-1.